

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Abingdon Division

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:
UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
v. : 1:16CR34
:
SITESH BANSI PATEL, :
:
Defendant. : Abingdon, Virginia
: March 10, 2017
-----x 9:02 a.m.

JURY TRIAL - TESTIMONY OF SITESH PATEL
BEFORE THE HONORABLE JAMES P. JONES
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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For the United States of America.

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Proceedings recorded by Stenography, transcript
produced by computer.

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UNITED STATES COURT REPORTER
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ABINGDON, VIRGINIA 24210
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1 (Proceedings commenced at 9:02 a.m.)

2 THE COURT: Good morning, ladies and gentlemen. Are
3 we ready for the jury?

4 MR. RAMSEYER: Yes. Has the court made a decision
5 about the expert witness for the defense?

6 THE COURT: I have. I believe it should be excluded,
7 and the reason is as follows. Under the Collateral Matter
8 Doctrine the parties are prohibited from using extrinsic
9 evidence to contradict testimony on, on a collateral matter,
10 and I believe this is, is a collateral matter and is not, and
11 is not relevant to the issues in the case, but solely to be
12 introduced to attack the credibility of the witness.

13 In addition, I think the law is clear, certainly in the
14 Fourth Circuit, that a witness cannot be asked about questions
15 as to collateral matters just to attack his credibility. I
16 don't remember how this came up, but in any event, I believe
17 the extrinsic evidence from this expert, who I understand's
18 purpose is to show the illegality of a certain product the
19 witness, Steven Wood, was manufacturing, and said a legal
20 product is prohibited.

21 MR. HALL: Your Honor, not to dispute that, may I
22 lodge her *curriculum vitae* with the court indicating who it was
23 I intended to call, and also a short proffer that she would
24 have testified, in essence, that the Noopept and also the
25 Picamilon that Mr. Wood has, in the past, marketed, and was the

Patel - Cross

1 subject of the letter that was never sent by FDA, and also the
2 Noopept, is not a dietary ingredient for a proper nutritional
3 supplement?

4 THE COURT: Yes, sir, you may proffer that, and that
5 will be marked as an exhibit and excluded.

6 THE CLERK: Defendant's Exhibit 77 marked.

7 THE COURT: All right. Are we ready for the jury,
8 then?

9 MR. RAMSEYER: Yes, Your Honor.

10 THE COURT: So, Mr. Patel, if you'd retake the stand,
11 I believe you're still being cross examined, and you're still
12 under oath, sir.

13 (The jury entered the courtroom and was seated in the jury
14 box.)

15 THE COURT: Good morning, ladies and gentlemen.
16 We're ready to go again. You may proceed, Mr. Ramseyer.

17 MR. RAMSEYER: Thank you, Your Honor.

18 BY MR. RAMSEYER:

19 Q Mr. Patel, you graduated from Rutgers University?

20 A I did.

21 Q When you graduated as a pharmacist you took an oath as a
22 pharmacist; is that right?

23 A That's correct.

24 MR. RAMSEYER: I'd like to mark this as Exhibit 55.

25

Patel - Cross

1 BY MR. RAMSEYER:

2 Q I'll show this here to you. Do you see that oath?

3 A Yes, sir.

4 Q Do you remember taking that?

5 A I do.

6 Q And you swore that you'd do these things; is that right?

7 A That's correct.

8 Q And that was in 2007; is that right?

9 A Correct.

10 MR. RAMSEYER: Move for admission of Government's
11 Exhibit 55.

12 THE COURT: It will be admitted.

13 (Government's Exhibit No. 55 was received in evidence.)

14 BY MR. RAMSEYER:

15 Q You testified that you were more or less a gofer in 2008.
16 Do you remember testifying to that?

17 A Yes, sir.

18 Q In fact, you were having substantive conversations with
19 customers, weren't you?

20 A I was.

21 Q They were, for instance, big customers that China can just
22 doctor us a COA stating it's an extract, didn't you?

23 A That was a conversation I had, and the way you're
24 portraying it is twisting it. It was a conversation in regard
25 to China and the fact that China was very behind the times. We

Patel - Cross

1 treated China as a joke. They were very behind the United
2 States in terms of paperwork.

3 Q But you admit that you told the customers China could just
4 doctor us a COA stating it's an extract, correct?

5 A I said those words.

6 Q And in 2008, again, when you say you were just a gofer,
7 did you agree with a customer that if you kept the amounts low
8 in each shipment of questionable powder from China that would
9 keep off of the FDA radar?

10 A Sorry, can you repeat that?

11 Q Yes. Did you agree with a customer in 2008 that if you
12 kept the amounts low in each shipment of questionable powder
13 from China that it would keep off of the FDA radar?

14 A In 2008 --

15 Q Did you say that?

16 A In 2008 China was not up to the standards that the United
17 States was. So, yes, shipments were coming in, and if you
18 wanted to keep them out of problems because they couldn't
19 create the documents, or they couldn't create the paperwork,
20 then, yeah, it was better to have a smaller shipment than a
21 larger shipment. If a customer is investing a lot of money in
22 a larger shipment it gets tied up in Customs and it gets stuck
23 there. In 2008 where China was, was very far behind the times.

24 Q It's correct you talked about how to keep it off the FDA's
25 radar, correct?

Patel - Cross

1 A It's in terms of Customs. When I'm saying that, I mean
2 it's so raw materials don't get stuck when they're coming into
3 the port.

4 Q All right. You mentioned there was somebody in China you
5 referred people to. Back in 2008, again, when you were
6 supposedly a gofer, you helped set up a customer with a Chinese
7 manufacturer to synthesize a new designer steroid, didn't you?

8 A Could you repeat that?

9 Q Yeah. In 2008 a customer asked you to set him up with a
10 Chinese manufacturer to synthesize a new designer steroid. Do
11 you remember that?

12 A In 2008, if we were selling the pro-hormones, I may have
13 began referrals to other vendors. It was quite common that we
14 would receive e-mail blasts from China all the time, and when
15 this happened Chinese vendors would send us e-mails and say,
16 "We have these pro-hormones in stock. We have these
17 pro-hormones in stock."

18 Q But this is a customer in the U.S. that you were giving
19 this information to, right?

20 A Right. It would have been a customer in the United
21 States.

22 Q One of your big customers, right?

23 A It may have been.

24 Q Probably your biggest customer, right?

25 A May have been.

Patel - Cross

1 Q Customer that paid you eight, \$9,000,000?

2 A It's possible.

3 Q Do you know Vincent Zhou of Beijing Smart Chemicals in
4 China?

5 A Yes.

6 Q Did you refer that customer to them?

7 A I referred him for legitimate dietary ingredients.

8 Q You referred him to synthesize a new designer steroid,
9 didn't you?

10 A It's possible for pro-hormones. If you're talking about
11 2007/2008, it's hard for me to say exactly what it was. But
12 yeah, it's possible if they were pro-hormones they were looking
13 for I may have referred them.

14 Q It is not fair to say you were a gofer, is it?

15 A I did consider myself a gofer. I was learning the
16 industry in 2007/2008. 2007 in the summer is when I started.

17 Q Did you tell one of the clients that, well, for one of
18 your clients you had had them buy a bunch of synthetic product,
19 and then you were worried because you wanted to make it look
20 like it was an organic product?

21 A No.

22 Q Okay. Did you, do you remember a time when you said,
23 "We're going to have to go back through all the COAs that China
24 has ever sent us and edit"?

25 A Again, it's, in 2008 C of As that came in from China were

Patel - Cross

1 very inaccurate. That's the best way I can put it. And yeah,
2 it's possible that we had to go back and we had to edit them
3 because they needed corrections. It happens all the time. We
4 make out C of As, they send us templates, we make edits,
5 sometimes if they don't send us a template we request from the
6 vendor, "Hey, your C of A is wrong. You need to correct it.

7 Q You remember at some point in the future after a bunch of
8 product had gone out you were going to go back and change all
9 the COAs in the products you already sold?

10 A It's possible we discovered an error in the C of As, then
11 if you discover an error you go back and fix it.

12 Q That's not what you do, do you? You tell the FDA there's
13 a problem. You don't go back and make it look like the product
14 was different than what you had in the COAs, do you?

15 A Absolutely not. You don't, the FDA has stated in their
16 regulations you're not supposed to rely on a certificate of
17 analysis.

18 Q But you're not supposed to falsify them, are you?

19 A It's not falsifying them if there's an error on a
20 certificate of analysis and you need to correct the error.

21 Q All right. You mentioned that you had gotten two checks
22 from Steve Wood in April of 2011, and you were supposed to hold
23 them; is that right?

24 A That's right.

25 Q How long did you hold them?

Patel - Cross

1 A I don't remember.

2 Q Was it one day?

3 A I don't remember.

4 Q Was it a week?

5 A I couldn't tell.

6 Q Was it two months?

7 A It was a very short time frame.

8 Q Was it a month?

9 A No.

10 Q Okay.

11 MR. RAMSEYER: If I could retrieve Exhibit 49.

12 BY MR. RAMSEYER:

13 Q This is a text message that was previously introduced. Is
14 that from you?

15 A Yes, sir.

16 Q And did you send that to Willy Ramos?

17 A I did.

18 Q Is that in June of 2014?

19 A That's right.

20 Q Did you ask him if he could encapsulate 11-oxo?

21 A Yes, I did.

22 Q Is 11-oxo a pro-hormone?

23 A First we need to define what a pro-hormone is. You can
24 have several different variations of pro-hormones. The
25 pro-hormones in this case are muscle building hormones.

Patel - Cross

1 Cholesterol is also a, is a hormone. It converts into other
2 hormones. There's also legal hormones on the market today.
3 The other is DHEA, which stands for dehydro --

4 Q What I'm asking is is 11-oxo a pro-hormone?

5 A It's a hormone in the sense that it converts into other
6 hormones, just like cholesterol converts into other hormones.

7 Q Is it a dietary supplement?

8 A If you look at the dietary supplement definition it fits
9 within the dietary supplement guidelines.

10 Q Why didn't you just make it yourself?

11 A Eleven-oxo, like I said, is a hormone. It's not a muscle
12 building hormone, but it is a hormone. In 2014 S.K. Labs was
13 enrolled in a program that prohibited any hormone-like
14 substance in its facility. That program was, it was called
15 Informed Choice. Informed Choice was a program to protect
16 athletes. So, we were producing high profile products, and we
17 didn't want any level, even in the parts per billion, of
18 contamination.

19 Q These are questionable products, right?

20 A I don't think anything is questionable about 11-oxo.

21 Q Think it's perfectly fine?

22 A I do.

23 Q You could make it in your factory?

24 A I could if we didn't have the Informed Choice program.

25 Q Mr. Patel, you never quit communicating with Steve Wood,

Patel - Cross

1 did you?

2 A No.

3 Q You never quit communicating with Willy Ramos, did you?

4 A No, I did not.

5 Q Never quit doing business with Steve Wood, did you?

6 A Up until 2014 I did not.

7 Q You never quit doing business with Willy Ramos, did you?

8 A I did not.

9 Q And you never reported them to law enforcement, did you?

10 A I'm sorry?

11 Q You never reported them to law enforcement, did you?

12 A The production that we were doing for both Willy Ramos and
13 Steve Wood were all legitimate products. I didn't have
14 anything to report on them.

15 Q Didn't have anything to report?

16 A No.

17 Q They were committing crimes, right?

18 A If you're talking about Steve Wood's conduct in 2010 and
19 2011?

20 Q Yes.

21 A Yeah, he was committing a crime.

22 Q Did you report it?

23 A No, he got caught.

24 Q Right. Did you report it before he got caught?

25 A No, I did not.

Patel - Cross

1 Q Did you report him after he got caught?

2 A No. I had no reason to.

3 Q Did you ever report Willy Ramos to law enforcement?

4 A No, I did not.

5 Q Did you ever report any of them to the FDA?

6 A No, I did not.

7 Q Did you ever tell them to stop making M-Drol and H-Drol?

8 A No, I did not.

9 Q And did you ever do anything to stop them from making
10 M-Drol and H-Drol?

11 A I stepped out of it, and that was it. I did not want --
12 if I told them to stop, I'm putting myself back into it.

13 Q Well, my question is you never told them to stop, did you?

14 A No.

15 Q And you never did anything to try to stop them, did you?

16 A Again, that's, it's a little twisted to say that. I
17 stepped out. I didn't want to be involved. I didn't want to
18 get back involved. If I'm sitting there telling someone, "Oh,
19 you guys should stop what you're doing," I'm inserting myself
20 back into it and I'm not going to do it.

21 Q Did you send an e-mail to Steve Wood saying, "I don't want
22 to have anything to do with this?"

23 A No.

24 Q Did you send an e-mail to Willy Ramos saying that?

25 A No. I had conversations with them.

Patel - Cross

1 Q Did you document in any way that you wanted out of this,
2 and you wanted this over with?

3 A I had no reason to document it.

4 Q All right. And you knew what they were doing was illegal?

5 A I did.

6 Q And you knew it was harmful?

7 A I did.

8 Q And you were perfectly fine with them making M-Drol and
9 H-Drol as long as they wanted to, correct?

10 A I was not perfectly fine with it, but I let them do it.

11 Q All right. Thank you.

12 THE COURT: All right. Any redirect?

13 MR. HALL: No, sir. No questions.

14 THE COURT: All right. Thank you, sir. You may step
15 down.

16 THE WITNESS: Thank you, Your Honor.

17 (Proceedings were had and reported, but not transcribed.)

18 (Proceedings concluded at 2:32 p.m.)

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CERTIFICATE

I certify the foregoing is an accurate transcript
from the record of proceedings in the above-entitled
matter.

3/23/17
Date

/s/ Bridget A. Dickert
U.S. Court Reporter